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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**

7 RAYMOND JACKSON,

Case No.: 3:19-cv-00115-MMD-WGC

8 Plaintiff,

ORDER

9 v.

Re: ECF No. 34

10 STATE OF NEVADA, et al.,

11 Defendants.

12
13 Before the court is Plaintiff's Motion for Appointment of Counsel (ECF No. 34). Plaintiff
14 bases his motion on the fact that (1) he is unable to afford counsel, and (2) Plaintiff has no access
15 to the law library nor a law clerk for assistance.

16 While any *pro se* inmate such as Mr. Jackson would likely benefit from services of counsel,
17 that is not the standard this court must employ in determining whether counsel should be appointed.
18 *Wood v. Housewright*, 900 F.2d 1332, 1335-1336 (9th Cir. 1990).

19 A litigant in a civil rights action does not have a Sixth Amendment right to appointed
20 counsel. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). The United States Supreme
21 Court has generally stated that although Congress provided relief for violation of one's civil rights
22 under 42 U.S.C. § 1983, the right to access to the courts is only a right to bring complaints to
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1 federal court and not a right to discover such claims or even to litigate them effectively once filed
2 with a court. *Lewis v. Casey*, 518 U.S. 343, 354-355 (1996).

3 In very limited circumstances, federal courts are empowered to request an attorney to
4 represent an indigent civil litigant. The circumstances in which a court will grant such a request,
5 however, are exceedingly rare, and the court will grant the request under only extraordinary
6 circumstances. *United States v. 30.64 Acres of Land*, 795 F.2d 796, 799-800 (9th Cir. 1986);
7 *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986).

8 A finding of such exceptional or extraordinary circumstances requires that the court
9 evaluate both the likelihood of Plaintiff's success on the merits and the *pro se* litigant's ability to
10 articulate his claims in light of the complexity of the legal issues involved. Neither factor is
11 controlling; both must be viewed together in making the finding. *Terrell v. Brewer*, 935 F.2d 1015,
12 1017 (9th Cir. 1991), *citing Wilborn, supra*, 789 F.2d at 1331. Thus far, Plaintiff has shown an
13 ability to articulate his claims.

14 In the matter of a case's complexity, the Ninth Circuit in *Wilborn* noted that:

15 If all that was required to establish successfully the
16 complexity of the relevant issues was a demonstration of
17 the need for development of further facts, practically all
18 cases would involve complex legal issues. Thus,
19 although *Wilborn* may have found it difficult to
articulate his claims *pro se*, he has neither demonstrated
a likelihood of success on the merits nor shown that the
complexity of the issues involved was sufficient to
require designation of counsel.

20 The Ninth Circuit therefore affirmed the District Court's exercise of discretion in denying
21 the request for appointment of counsel because the Plaintiff failed to establish the case was
22 complex as to facts or law. 789 F.2d at 1331.
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1 The substantive claims involved in this action are not unduly complex. Plaintiff's
2 complaint was allowed to proceed on the Eighth Amendment claim of deliberate indifference to a
3 serious medical need against Defendants Martin, Artington and Munichin. (ECF No. 8 at 9.)

4 Similarly, with respect to the *Terrell* factors, Plaintiff has failed to convince the court of
5 the likelihood of success on the merits of his claims. In fact, Plaintiff has not discussed this issue
6 whatsoever.

7 The court does not have the power "to make coercive appointments of counsel."
8 *Mallard v. U. S. Dist. Ct.*, 490 US 296, 310 (1989). Thus, the court can appoint counsel only under
9 exceptional circumstances. *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) [cert den 130
10 S.Ct. 1282 (2010)]. Plaintiff has not shown that the exceptional circumstances necessary for
11 appointment of counsel are present in this case.

12 In the exercise of the court's discretion, it **DENIES** Plaintiff's Motion for Appointment of
13 Counsel (ECF No. 34).

14 **IT IS SO ORDERED.**

15 Dated: June 26, 2020.

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18 WILLIAM G. COBB
19 UNITED STATES MAGISTRATE JUDGE
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